

§ 13. Invasion of House Jurisdiction or Prerogatives

Senate Invasion of House Prerogatives

§ 13.1 Invasion of the House prerogative to originate revenue-raising legislation granted by article I, section 7 of the Constitution raises a question of the privilege of the House.

On May 20, 1965,⁽⁹⁾ Mr. Wilbur D. Mills, of Arkansas, offered as a matter involving the privilege of the House a resolution⁽¹⁰⁾ providing for the return to the Senate of a messaged bill. The bill authorized the President to raise the duty on fishery products and was deemed to infringe on the revenue-raising prerogatives of the

9. 111 CONG. REC. 11149, 11150, 89th Cong. 1st Sess. For further instances where invasion of the House's revenue-raising prerogative gave rise to a question of the privilege of the House, see 111 CONG. REC. 23632, 89th Cong. 1st Sess., Sept. 14, 1965; 108 CONG. REC. 23014, 87th Cong. 2d Sess., Oct. 10, 1962; 106 CONG. REC. 15818, 15819, 86th Cong. 2d Sess., July 2, 1960; 99 CONG. REC. 1897, 1898, 83d Cong. 1st Sess., Mar. 12, 1953; 92 CONG. REC. 5001-12, 79th Cong. 2d Sess., May 14, 1946.

10. H. Res. 397.

House. The language of the Senate bill was as follows:

That when the Secretary of the Interior determines that the fishing vessels of a country are being used in the conduct of fishing operations in a manner or in such circumstances which diminish the effectiveness of domestic fishery conservation programs, the President . . . may increase the duty on any fishery product in any form from such country for such time as he deems necessary to a rate not more than 50 percent above the rate existing on July 1, 1934.

The House resolution was agreed to.

Executive Invasion of House Prerogatives

§ 13.2 Alleged infringement by the executive branch, through its treatymaking power, on the constitutional right of Congress under article IV section 3 to exercise control over the territory and other property belonging to the United States, presents a question of the privilege of the House.

On Feb. 17, 1944,⁽¹¹⁾ Mr. Carl Hinshaw, of California, presented as a question involving the privilege of the House a resolution⁽¹²⁾

11. 90 CONG. REC. 1836, 78th Cong. 2d Sess.

12. H. Res. 446.

instructing the Committee on the Judiciary to investigate the action of the President in sending to the Senate for ratification a treaty relating to the utilization by the United States and Mexico of certain southwestern rivers. The resolution declared that the Constitution (art. IV, §3) vests regulatory power over U.S. territory in the Congress, and that the action of the President constituted an invasion of the House's prerogatives relating to the control of United States' territory and property. Without debate, a motion to refer the resolution to the Committee on the Judiciary was agreed to.⁽¹³⁾

Judicial Invasion of House Prerogatives

§ 13.3 A resolution declaring that the constitutional prerogatives of the House had been invaded by the issuance of a court order restraining the publication of a committee report presents a question of the privilege of the House.

On Dec. 14, 1970,⁽¹⁴⁾ Mr. Richard H. Ichord, of Missouri, offered as a matter involving the privilege

13. 90 CONG. REC. 1841, 78th Cong. 2d Sess.

14. 116 CONG. REC. 41355, 91st Cong. 2d Sess.

of the House a resolution (H. Res. 1306) ordering the Public Printer to publish a report of the Committee on Internal Security and enjoining all persons from interfering therewith, it being alleged, inter alia, that the prior issuance of a temporary order by a United States District Court restraining the publication of the committee report constituted an invasion of the House's prerogatives granted by the U.S. Constitution (art. I, §6, clause 3). After lengthy debate the resolution was agreed to on a roll call vote.⁽¹⁵⁾

§ 14. Service of Process on Members

The service of process on the House or those associated with it, or the exercise of authority over it by another coordinate and coequal branch of government, including any mandate of process which commands a Member's presence before another branch of government during sessions of the House, has historically been perceived by the House as a matter intimately related to its dignity and the integrity of its proceedings, and as constituting an occasion for the raising of the question of the privilege of the House.

15. Id. at P. 41374.